

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-077-10123R

Parcel No. 181/00393-282-000

Karen & Leland Keninger,

Appellants,

vs.

Polk County Board of Review,

Appellee.

Introduction

This appeal came before the Property Assessment Appeal Board (PAAB) for written consideration on August 14, 2020. Karen Keninger was self-represented. Assistant Polk County Attorney Jason Wittgraf represented the Board of Review.

Karen and Leland Keninger (Keninger) own a residential property located at 810 NE Redwood Lane, Ankeny, Iowa. The property's January 1, 2019, assessment was set at \$259,900, allocated as \$39,700 in land value and \$220,200 in dwelling value. (Ex. A).

Keninger petitioned the Board of Review contending the assessment was not equitable compared with the assessments of other like property, was assessed for more than the value authorized by law, and there was an error in the assessment. Iowa Code § 441.37(1)(a)(1,2 & 4) (2019). (Ex. C). The Board of Review denied the petition. (Ex. B).

Keninger then appealed to PAAB reasserting her claims. While her appeal form stated her claim was an error in the assessment, her written statement indicates her grounds are inequity and over assessment. Iowa Code § 441.37(1)(a)(1 & 2).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701–126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a one-story townhome built in 2004. It has 1604 square feet of gross living area, a walk-out basement with 1352 square feet of living-quarter quality finish, an open porch, a deck, and patio. It is listed in normal condition with good quality construction (grade 3+10). The Assessor's Office applied 7% physical depreciation to the dwelling. The site is 0.158 acres. (Ex. A).

Keninger states the builder, Rottlund Homes, had the subject property listed for two years before it sold for \$255,700 in 2006. (Ex. C). Keninger believes the previous owner overpaid for the property and realtors had a difficult time marketing it. (Ex. C). She states it was again on the market for a year and a half before they purchased it in August 2010 for \$190,000.

Keninger states her home is not custom built like many of the others in her area. She describes it as a spec home with builder-grade finishes such as flooring, fiberglass

tubs and showers, and a small deck. She states it has had no new updates and the roof and deck will need to be replaced. In contrast, she describes her neighboring properties as custom built homes, with newer roofs and decks, as well as remodeled kitchens and baths. Nevertheless, she asserts their assessments are lower than hers. The subject property's 2018 assessment was \$215,600, and she believes her assessment's increase of 17% was the highest increase in her area. (Exs. A & C).

In her protest to the Board of Review, Keninger listed four townhomes she contends are custom units and listed their assessments as well as the increases in assessed values. The record does not contain information about these properties. Assuming Keninger has correctly reported their assessments, it appears their values increased by approximately 6% between 2017 and 2019. (Ex. C). We note all of these properties' 2019 assessments were lower than the subject's 2019 assessment. According to Keninger, one unit at 816 NE Redwood Lane recently sold in 2018 for \$250,000, or slightly more than its 2019 assessment of \$249,600. The record lacks information about this sale or this property, other than Keninger's belief that a 7% real estate commission was added to its value to arrive at a sale price.

Keninger also listed four properties she believes are comparable to hers on her PAAB appeal. The Board of Review provided the cost reports for these properties and analyzed their differences. (Exs. D-H). The following table summarizes the subject property and these properties.

Address	Year Built	Gross Living Area (SF)	Basement Finish	Walk-out	Sale Date	Sale Price	2019 Assessed Value
Subject	2004	1604	1352 LQ	36	NA	NA	\$259,900
1 –814 NE Redwood	2002	1444	800 LQ	36	11/17	\$240,000	\$231,300
2 –3606 NE Raintree	2001	1351	675 LQ	36	5/18	\$225,000	\$222,100
3 – 829 NE Rosewood	2003	1444	600 LQ	0	6/17	\$234,900	\$220,000
4 –3703 Raintree	2001	1351	675 LQ	0	NA	NA	\$218,300

All of the comparables are similar in style, grade, and site size to the subject. However, the subject is the newest, with the largest gross living area and basement finish. The subject's basement finish alone adds \$59,055 to the Replacement Cost New (RCN), before depreciation and other adjustments. Comparable 1 has the next largest amount of basement finish, at 800 square feet which adds \$34,944 to that property's RNC. (Exs. A & E). This distinction, coupled with the subject having the largest gross living area, accounts for the main differences in the subject's assessment as compared to the other properties.

Only Comparable 2 sold in 2018; Comparables 1 and 3 each sold in 2017. The record contains no information about the nature of these sales. Keninger reports that all of the properties sold for more than their current assessments. The sale price to assessment ratios for the 2018 sale of 3606 NE Raintree would be 0.99, indicating the assessed value of this property is very close to its market value.

Analysis & Conclusions of Law

Keninger contends her property is inequitably assessed, and that it is assessed for more than authorized by law. § 441.37(1)(a)(1&2). She bears the burden of proof. § 441.21(3).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Keninger offered the assessed values of neighboring properties to support her claim. However, the record indicates the differing assessments stem from the differing amenities of these homes. Nothing in the record shows a non-uniform method of assessing these differences.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after

considering the actual values (2018 sales) and assessed values (2019) of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* Only one comparable sold in 2018. Iowa Code section 441.37(1)(a)(1) requires more than one comparable to establish inequity. *Crary v. Boone Bd. of Review*, 286 N.W. 428 (Iowa 1939); *Miller v. Property Assessment Appeal Board*, 2019 WL 3714977 *4 (Iowa Ct. App. Aug. 7, 2019). Accordingly, Keninger's claim must fail for this reason alone.

Despite this, we note the 2018 comparable Keninger submitted, which she asserts sold in 2018 for \$225,000, would have an assessed-value-to-sale-price ratio of 0.99. A ratio of 1.00 suggests assessed values are near or at market value.

Finally, the *Maxwell* analysis also requires a ratio to be developed for the subject property. The subject property did not recently sell, nor did Keninger offer evidence of its January 1, 2019 market value that is consistent with section 441.21.¹ Thus we cannot complete the *Maxwell* analysis. As such, the record is insufficient to determine if the subject property is assessed at a higher proportion of its actual value when compared to the one comparable offered.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion.

The subject property has not recently sold. There is limited information available on the other sales in the record, and we cannot determine whether they were arm's-length transactions. Moreover, the sales were not adjusted for differences

¹ Iowa Code section 441.21 requires that a property's assessed value be determined, first and foremost, by sales of the subject property or comparable properties.

between them and the subject. Keninger did not submit an appraisal or comparative market analysis to demonstrate the January 1, 2019 market value of her home, and has therefore failed to show the subject property is assessed for more than authorized by law

Viewing the record as a whole, we conclude Keninger failed to show her property was inequitably assessed or was overassessed.

Order

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



Elizabeth Goodman, Board Member



Karen Oberman, Board Member



Dennis Loll, Board Member

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Polk County Board of Review by eFile